

Effective 5/10/2016

Part 3 Unlawful Conduct

58-86-301 Unlawful conduct.

"Unlawful conduct" includes:

- (1) using the title "state certified commercial interior designer" if the person is not a state certified commercial interior designer in good standing under this chapter; or
- (2) engaging in the practice of commercial interior design unless exempted from licensure or state certification under Section 58-1-307 or 58-86-206.

Enacted by Chapter 294, 2016 General Session

58-86-302 Penalty for unlawful conduct.

- (1) If upon inspection or investigation the division concludes that a person has violated Subsections 58-1-501(1)(a) through (d), Section 58-86-301, or a rule or order issued with respect to Section 58-86-301, and that disciplinary action is appropriate, the director or the director's designee may:
 - (a) issue a citation to the person according to this chapter and any pertinent rules;
 - (b) attempt to negotiate a stipulated settlement; or
 - (c) notify the person to appear at an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.
- (2) A person who violates Subsections 58-1-501(1)(a) through (d), Section 58-86-301, or a rule or order issued with respect to Section 58-86-301, as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this chapter and may, in addition to or in lieu of the fine, be ordered to cease and desist from violating Subsections 58-1-501(1)(a) through (d), Section 58-86-301, or a rule or order issued with respect to Section 58-86-301.
- (3) A citation issued under this chapter shall:
 - (a) be in writing;
 - (b) describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;
 - (c) clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and
 - (d) clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation.
- (4) The division may issue a notice in lieu of a citation.
- (5) A citation issued under this section, or a copy of the citation, may be served upon a person upon whom a summons may be served in accordance with the Utah Rules of Civil Procedure and may be made by mail or may be made personally or upon the person's agent by a division investigator or by a person specially designated by the director.
- (6)
 - (a) If within 20 calendar days from the service of the citation the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.
 - (b) The period to contest a citation may be extended by the division for cause.

- (7) The division may refuse to issue or renew or may suspend, revoke, or place on probation the state certification of a state certified commercial interior designer who fails to comply with a citation after the citation becomes final.
- (8) The failure of an applicant for state certification to comply with a citation after the citation becomes final is a ground for denial of state certification.
- (9) No citation may be issued under this section after the expiration of six months following the occurrence of a violation.
- (10) The director or the director's designee shall assess fines according to the following:
 - (a) for a first offense handled pursuant to this section, a fine of up to \$1,000;
 - (b) for a second offense handled pursuant to this section, a fine of up to \$2,000; and
 - (c) for any subsequent offense handled pursuant to this section, a fine of up to \$2,000 for each day of continued offense.
- (11) An action initiated for a first or second offense that has not yet resulted in a final order of the division does not preclude initiation of a subsequent action for a second or subsequent offense during the pendency of a preceding action.
- (12)
 - (a) A penalty that is not paid may be collected by the director by either referring the matter to a collection agency or by bringing an action in the district court of the county in which the person against whom the penalty is imposed resides or in the county where the office of the director is located.
 - (b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect the penalty.
 - (c) In an action brought to enforce the provisions of this section, reasonable attorney fees and costs shall be awarded to the division.

Enacted by Chapter 294, 2016 General Session